

SENATE BILL 1792
By Herron

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-103, is amended by substituting a period for the semicolon at the end of subdivision (2) and by adding the following language immediately thereafter:

"Consumer" includes persons within or outside the state if the entity or person alleged to have violated this act is located in whole or in part within the state;

SECTION 2. Tennessee Code Annotated, Section 47-18-103, is further amended by substituting a period for the semicolon at the end of subdivision (9) and by adding the following language immediately thereafter:

"Person" includes anyone within or outside the state if the entity or person alleged to have violated this act is located in whole or in part within the state;

SECTION 3. Tennessee Code Annotated, Section 47-18-103, is further amended by deleting the semicolon and by adding the language "whether in part or wholly located within this state." after the words "wherever situated" at the end of subdivision (11).

SECTION 4. Tennessee Code Annotated, Section 47-18-108, is amended by adding the following sentence at the end of subdivision (a)(4):

Such injunctions shall be enforceable against entities or other persons that are located in whole or in part within the state and shall include prohibited actions related to consumers or other persons within or outside the state.

SECTION 5. Tennessee Code Annotated, Section 47-18-108, is further amended by designating subdivision (b)(1) as (b)(1)(A) and by adding the following new subdivision to be designated as follows:

(B) Upon finding that a violation of this part has occurred, the court shall make every effort to make consumers and other persons whole by ordering restitution of any ascertainable loss to such person. Such losses shall be returned to affected consumers or other persons located within or outside the state if the entity or person violating the act is located in whole or in part within the state. Such finding shall not limit any consumer or other person's private right of action, provided, that any monies awarded to a particular consumer or other person as a result of an action commenced by the state shall operate as a set-off in any private right of action.

SECTION 6. Tennessee Code Annotated, Section 47-18-108, is further amended by adding the following at the end of subdivision (b)(3):

Such civil penalty may be awarded to the state for any violation involving consumers or other persons located within or outside the state if the entity or other person violating this act is located in whole or in part within the state.

SECTION 7. Tennessee Code Annotated, Section 47-18-109, is amended by adding the following at the end of subdivision (a)(1):

Such action may be brought by such person or other consumer located within or outside the state if the entity or other person alleged to have violated the act is located in whole or in part within the state.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect on July 1, 2005, the public welfare requiring it.